HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No.102 OF 2007

–

Between:

The Agricultural Market Committee,
Nizamabad

.... Appellant

AND

M/s Sukhjit Starch Mills Limited,
Rep. by its Vice President Mr. Rajeev Puri,
Nizamabad & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri V.V.N. Narayana Rao

Counsel for respondent No.1 : Shri M.S. Ramachandra Rao

Counsel for respondent Nos.2 and 3: Government Pleader for Industries

Counsel for respondent No.4 : Government Pleader for Cooperation

Dated: 01.02.2007

Per G.S.SINGHVI, CJ

This appeal is directed against order dated 13.06.2006 passed by the learned Single Judge, whereby he allowed the writ petition filed by respondent No.1 - M/s Sukhjit Starch Mills Limited and quashed the demand of market fee created by the appellant and letter dated 02.02.2005 by which respondent No.1 was threatened with prosecution.

Respondent No.1 is a food processing industry engaged in the manufacturing of maize starch, liquid glucose and other products of maize. Vide G.O.Ms.No.333 dated 14.11.2003, the State Government announced the policy of exempting all food processing industries from payment of market fee/cess on the procurement of raw material. For giving effect to the said policy, the Industries and Commerce Department issued G.O.Ms.No.55 dated 05.04.2004.

The appellant issued notice dated 08.07.2004 to respondent No.1 requiring the latter to submit returns of turn over under Section 12-A of the Andhra Pradesh (Agricultural Produce and Live Stock) Markets Act, 1966 read with Rule 70(1) of the Andhra Pradesh (Agricultural Produce and Live Stock) Markets Rules, 1969. The appellant also created demand of market fee amounting to Rs.25,836/- for the months of April and May 2004. Respondent No.1 contested the notice and

claimed that in view of the exemption granted by the State Government, it was not liable to pay market fee. After some correspondence, the appellant created fresh demand of market fee and issued letter dated 02.02.2005, whereby respondent No.1 was threatened that if the amount of fees is not deposited, then it will be prosecuted. At that stage, respondent No.1 filed Writ Petition No.1954 of 2005 questioning the demand of market fee and threat of prosecution.

The learned Single Judge noted that the writ petitioner had taken steps in accordance with G.O.Ms.No.55 dated 05.04.2004 and that the District Level Committee had already sanctioned concessional power tariff and market cess to the industry and held that non-petitioner No.1 (the appellant herein) is not entitled to demand market fee.

Shri V.V.N. Narayana Rao, learned counsel for the appellant referred to the guidelines contained in G.O.Ms.No.55 dated 05.04.2004 and argued that the learned Single Judge committed an error by granting relief to respondent No.1 ignoring the fact that the latter had failed to produce the eligibility certificate issued by the District Level Committee.

Shri M.S. Ramachandra Rao, learned counsel for respondent No.1 controverted the submission of Shri Narayana Rao and pointed out that even though at the time of filing of the writ petition, respondent No.1 did not have the required eligibility certificate, on the applications filed by it, the District Level Committee had, in its meeting held on 09.05.2005, sanctioned the

issue of eligibility certificate entitling it to concession in power tariff as well as market fee. Shri Rao produced xerox copy of letter dated 01.06.2005 issued by General Manager, District Industries Center, Nizamabad along with minutes of the meeting of the District Level Committee held on 09.05.2005, perusal of which reveals that the District Level Committee had sanctioned concession of power tariff and allowed market fee exemption to respondent No.1. The documents produced by Shri M.S. Ramachandra Rao were shown to Shri V.V.N. Narayana Rao, learned counsel for the appellant, who after going through the same, agreed that the District Level Committee has issued eligibility certificate entitling respondent No.1 to claim exemption of payment of electricity tariff as well as concession in the payment of market fee.

In view of the above, the appeal is dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

01.02.2007
ksld

-